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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,702	03/09/2004	Johann F. Petersen	58999US003	2885

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EXAMINER	
EASHOO, MARK	
ART UNIT	PAPER NUMBER
1732	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/796,702	PETERSEN ET AL.	
	Examiner	Art Unit	
	Mark Eashoo, Ph.D.	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) *28-33* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2 ea.*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claim group I, claims 1-27, in the reply filed on 18-OCT-2006 is acknowledged. The traversal is on the ground(s) that separate examination would be a substantial duplication of work by the USPTO. This is not found persuasive because applicant's arguments submit that "additional consideration would be necessary" to examine the claim groupings separately.

The requirement is still deemed proper and is therefore made FINAL.

Claims 28-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 18-OCT-2006.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

The information disclosure statements filed 05-APR-2004 and 27-JUN-2005 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, they have been placed in the application file and the information referred to therein has been considered as to the merits.

Specification

The disclosure is objected to because of the following informalities: The unit for fastening element density is recited as "cm $^{-2}$" which appears to be a typo and should be " cm^2". Appropriate correction is required.

Appropriate correction is required.

Claim Objections

Claims 9, 24, and 25 are objected to because of the following informalities: The unit for fastening element density is recited as "cm $^{-2}$" which appears to be a typo and should be " cm^2". Appropriate correction is required.

Claim 24 is objected to because of the following informalities: The claim does not end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 25 recites the broad recitation "between 2 and 200 cm^2", and the claim also recites "between 4-150 cm^2" and "between 5-80 cm^2"which are narrower statements of the range/limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-6, 16-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Buzzell et al. (US Pat. 6,582,642) when taken with Kennedy et al. (US Pat. 5,260,015).

Buzzell et al. teaches the claimed process of forming a fastening web laminate, comprising: providing a fibrous web layer (Figs. 13 and 13a); passing the fibrous web layer through a roll nip formed by a mold roll and a backing roll (Fig. 13); introducing molten resin to the roll nip (Fig. 13); allowing the molten resin to

partially solidify and then stripping a precursor laminate from the mold roll (Fig. 13); and stretching the precursor laminate (Figs. 1-2). Buzzell et al. further teaches: applying a thermal energy prior to stretching (Figs. 1-2); Kennedy et al., which is incorporated by reference into Buzzell et al. (15:1-20), teaches a nonwoven fabric (5:45-60); a draw ratio of 2-8 (7:55-8:40); stretching in a tenter apparatus (Figs. 1-2);

The examiner recognizes that all of the claimed effects and physical properties (eg. a basis weight of less than 100 g/m^2)are not positively stated by the reference(s). However, the reference(s) teaches all of the claimed ingredients, process steps, and process conditions. Therefore, the claimed effects and physical properties would inherently be achieved by carrying out the disclosed process. If it is applicants' position that this would not be the case: (1) evidence would need to be presented to support applicants' position; and (2) it would be the examiner's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects by carrying out only these process steps.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-15, 18, and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US Pat. 6,582,642) when taken with Kennedy et al. (US Pat. 5,260,015).

Buzzell et al. teach the basic claimed process as set forth above. Buzzell et al. further teaches: fastener element densities in the range of 200-2000 per sq. inch and optimizing the density depending upon the desired final use of the fastener (8:40-65); J-shaped fastener heads (Fig. 5); longitudinal stretching using driven rolls (4:50-60); various thermoplastic materials such as PET, polypropylene, nylon, and other copolymers (2:40-55 and 9:65-10:50). Buzzell et al. also teaches that the materials are chosen, in part, based upon their physical properties (4:65-5:50).

Buzzell et al. does not teach all the specific physical properties or dimensions of the laminate or nonwoven web. Nonetheless, a person of ordinary skill in the art would have found it obvious to have optimized product properties and dimensions, using routine experimentation, as suggested by Buzzell et al. in order to form a desired commercially viable product having desired physical traits.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US Pat. 6,582,642), when taken with Kennedy et al. (US Pat. 5,260,015), and in view of de Navas Albareda (US Pat. 056,593).

Buzzell et al. teach the basic claimed process as set forth above in both prior art rejections.

Buzzell et al. does not teaches cutting the precursor laminate in the CD. However, de Navas Albareda teaches cutting a precursor fastener web in the CD (Figs. 1 and 3). At the time of invention a person of ordinary skill in the art would have found it obvious to have cut a the precursor web in the CD, as taught by de Navas Albareda, in the process of Buzzell et al., because de Navas Albareda suggest that such cutting (and extruding of rib structures) is an equivalent and alternative means for forming fastener products.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US Pat. 6,582,642), when taken with Kennedy et al. (US Pat. 5,260,015), and in view of de Navas Albareda (US Pat. 056,593).

Buzzell et al. teaches the claimed process of forming a fastening web laminate, comprising: providing a fibrous web layer (Figs. 13 and 13a); passing the fibrous web layer through a roll nip formed by a mold roll and a backing roll (Fig. 13); introducing molten resin to the roll nip (Fig. 13); allowing the molten resin to partially solidify and then stripping a precursor laminate from the mold roll (Fig. 13); and stretching the precursor laminate (Figs. 1-2). Buzzell et al. further teaches: applying a thermal energy prior to stretching (Figs. 1-2); Kennedy et al., which is incorporated by reference into Buzzell et al. (15:1-20), teaches a nonwoven fabric (5:45-60); a draw ratio of 2-8 (7:55-8:40); stretching in a tenter apparatus (Figs. 1-2);

The examiner recognizes that all of the claimed effects and physical properties (eg. a basis weight of less than 100 g/m^2)are not positively stated by the reference(s). However, the reference(s) teaches all of the claimed ingredients, process steps, and process conditions. Therefore, the claimed effects and physical properties would inherently be achieved by carrying out the disclosed process. If it is applicants' position that this would not be the case: (1) evidence would need to be presented to support applicants' position; and (2) it would be the examiner's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects by carrying out only these process steps.

Buzzell et al. does not teaches slitting/cutting the precursor laminate in the CD. However, de Navas Albareda teaches cutting a precursor fastener web in the CD (Figs. 1 and 3). At the time of invention a person of ordinary skill in the art would have found it obvious to have cut a the precursor web in the CD, as taught by de Navas Albareda, in the process of Buzzell et al., because de Navas Albareda suggest that such cutting (and extruding of rib structures) is an equivalent and alternative means for forming fastener products.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

me
January 8, 2007

08/Jan/07